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MAR 13 2006

In re Application of
Junji Horikawa et al.
Application No. 10/781,265
Filing Date: February 19, 2004
Attorney Docket Number: SON-1648/CON/RE
Title: COMPUTER ANIMATION
GENERATOR

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OFFICE OF PETITIONS

DECISION ON PETITION
UNDER 37 C.F.R. §1.183

This is a decision on the petition filed November 21, 2005, pursuant to 37 C.F.R. §1.183, requesting waiver of the 37 CFR §§1.125(d) and 1.173(a)(1), so that a substitute specification can be filed in this reissue application, and said substitute specification need not be a copy of the printed patent.

The petition is granted.

A fee of \$400 has been received for the petition under 37 CFR 1.183, and has been processed.

DECISION

37 CFR 1.125(d) prohibits the filing of a substitute specification in a reissue application, while the present petition requests entry of the substitute specification filed on November 21, 2005. Accordingly, this petition is being considered as a petition under 37 CFR 1.183 for a waiver of 37 CFR 1.125(d). 37 CFR 1.173(a)(1) requires the filing of the specification in the form of "a copy of the printed patent, in double column format, each page on only one side of a single sheet of paper." The substitute specification filed on November 21, 2005 is not a copy of the printed patent, in double column format. Accordingly, this petition is also being considered as a petition under 37 CFR 1.183 for a waiver of 37 CFR 1.173(a)(1).

The reissue application was originally filed with a specification that did not comply with 37 CFR 1.173(a)(1). On September 20, 2005, an Office action was mailed, which indicated that the Applicant was required to provide a substitute specification, so as to incorporate the changes in the certificate of correction (issued for the patent for which reissue is requested) without bracketing or underlining.

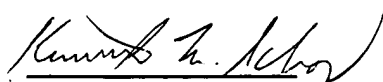
With this present petition, Petitioner has included a substitute specification, along with a statement that "a substitute specification has been provided along with the Response to Ex Parte Quayle Action. No new matter has been added."¹

Petitioner is requesting waiver of the requirements of 37 CFR 1.125(d) and 37 CFR 1.173(a)(1) based on the fact that the Examiner has required a substitute specification.

This basis is considered to be sufficient for granting the petition. The rules will be waived to permit applicant to comply with the requirement of the examiner, since there is no other way to present the required substitute specification, and the requirement for the substitute specification by the examiner is deemed appropriate.

CONCLUSION

1. The petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.125(d) and 37 CFR 1.173(a)(1) is granted.
2. The substitute specification filed on November 21, 2005 will be addressed by the Technology Center.
3. Jurisdiction over the reissue application is being forwarded to the Technology Center for further action as appropriate.
4. Telephone inquiries with regard to this decision should be directed to Paul Shanoski at (571) 272-3225.
5. The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282.



Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examining Policy

3-7-06

¹ Petition, page 1.